

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

GARY RAY GARRIS,

Plaintiff,

v.

UNITED STATES ARMY DD214 SSA,

JUDGE JUSTIN L. QUACKENBUSH,

PRESIDENT RONALD REAGAN,

Defendants.

2:15-cv-00238-SAB

ORDER OF DISMISSAL

On September 9, 2015, the Plaintiff, Mr. Garris, filed this pro se civil rights action and a Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody, which he asked to be filed as a single document. He paid the \$400.00 filing fee and a complaint was filed.

On December 12, 2000, U.S. District Judge Robert H. Whaley entered a pre-filing order, prohibiting Mr. Garris from filing pro se actions with this Court unless he filed an adequate Petition Seeking Leave to File Pro Se Action. *See* Order Dismissing Claims as Frivolous, *Garris v. Thompson et al.*, No. 2:00-cv-00395-RHW (E.D. Wash. Dec. 12, 2000), ECF No. 4.

The pre-filing order was proper and followed the Ninth Circuit's four-factor test for the entry of pre-filing orders limiting the ability of plaintiffs to file new

1 cases. *See, e.g., Molski v. Evergreen Dynasty Corp.*, 500 F.3d 1047, 1058 (9th Cir.
2 2007). Under the first factor of *Molski*, the plaintiff must be given notice and an
3 opportunity to be heard before the pre-filing order is entered. *Id.* Judge Whaley
4 gave Mr. Garris such an opportunity in his Order to Show Cause, 2:00-cv-00395-
5 RHW, ECF No. 2. Mr. Garris replied with a non-responsive statement.

6 Under the second factor, the court must create an adequate record for
7 review. *Molski*, 500 F.3d at 1059. In the above-cited show cause order, Judge
8 Whaley listed nine separate and meritless pro se filings in the United States
9 District Court for the Eastern District of Washington. This is an adequate record to
10 justify the pre-filing order.

11 Thirdly, the court must make substantive findings “as to the frivolous or
12 harassing nature of the litigant’s actions.” *Molski*, 500 F.3d at 1059. The plaintiff’s
13 claims must be more than numerous; they must be patently without merit. *Id.*
14 Judge Whaley shows that Mr. Garris’ filings are not only numerous, but they are
15 uniformly and wholly without legal merit, are based on supernatural and religious
16 portents, and were properly dismissed.

17 Finally, the pre-filing order must be narrowly tailored to the litigant’s
18 harmful behavior. *Molski*, 500 F.3d at 1061. Judge Whaley set out a reasonable
19 limitation on Mr. Garris’ ability to file pro se actions within the United States
20 District Court for the Eastern District of Washington. Mr. Garris can still file with
21 an attorney, and he may still file pro se when he fulfills the requirements of the
22 “Petition Pursuant to Court Order Seeking Leave to File a Pro Se Action.” *See*
23 Appendix A, 2:00-cv-00395-RHW, ECF No. 4. This pre-filing order is narrowly
24 tailored to protect the Court and the public from repeated, meritless litigation.

25 Mr. Garris is not represented by an attorney in this case, and his complaint
26 was not accompanied by any Petition Seeking Leave to File Pro Se Action. The
27 Plaintiff has failed to comply with the filing restrictions set upon him by Appendix
28 A of the above-cited order.

1 Therefore, **IT IS ORDERED** that the District Court Executive shall
2 **ADMINISTRATIVELY CLOSE** this file as improperly opened on September 9,
3 2015. Mr. Garris shall file no further documents in the file, other than a notice of
4 appeal.

5 **DATED** this 2nd day of October, 2015.



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11 Stanley A. Bastian
12 United States District Judge
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